NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

UNITED STATES,
Plaintiff-Appellee

v.

WILEY R. KUYRKENDALL,
Defendant-Appellant

GREENBRIAR HOLDINGS, GLACIER SYSTEMS, CHRIS IRBY, CHRIS IRBY INSURANCE AGENCY, INC., TERESA L. HATHORN, fka Teresa A. Kuyrkendall, JUDY FORTENBERRY, Tax Collector of Rankin County, Mississippi, MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY, MISSISSIPPI DEPARTMENT OF REVENUE,
Defendants

2017-1713

Appeal from the United States District Court for the Southern District of Mississippi in No. 3:14-cv-00751-CWR-FKB, Judge Carlton W. Reeves.

ON MOTION

Before LOURIE, O'MALLEY, and HUGHES, *Circuit Judges*.

PER CURIAM.

O R D E R

The United States moves to transfer this appeal to the United States Court of Appeals for the Fifth Circuit. Wiley R. Kuyrkendall opposes the motion.

Mr. Kuyrkendall appeals from a decree of foreclosure and a final judgment of the United States District Court for the Southern District of Mississippi that granted summary judgment to the United States for unpaid taxes.

Mr. Kuyrkendall's notice of appeal stated he wanted to appeal to this court, but the notice was initially transmitted to the Fifth Circuit in error. After the Fifth Circuit dismissed the inadvertently-docketed appeal, the district court then transmitted the notice of appeal to this court. *See* Fed. R. App. P. 3(d)(1) (The clerk of the district court "must promptly send a copy of the notice of appeal and of the docket entries . . . to the clerk of the court of appeals named in the notice.").

We agree with the government that this case does not fall within this court's limited jurisdiction. 28 U.S.C. § 1295. Pursuant to 28 U.S.C. § 1631, this court may, if it is in the "interest of justice," transfer an appeal to another court in which the appeal could have been brought. Because Mr. Kuyrkendall could have brought his appeal to the Fifth Circuit, we grant the government's motion to transfer.

Accordingly,

IT IS ORDERED THAT:

(1) The stay of proceedings is lifted.

(2) The motion to transfer is granted. This case and all filings are transferred pursuant to 28 U.S.C. § 1631 to the United States Court of Appeals for the Fifth Circuit.

FOR THE COURT

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

ISSUED AS A MANDATE: April 28, 2017

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